

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7132

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JUSTIN HAWKINS, a/k/a Main,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (CR-98-16-BO, CA-99-704-5-BO)

Submitted: December 8, 2000

Decided: January 5, 2001

Before WIDENER, LUTTIG, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Justin Hawkins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
Local Rule 36(c).

PER CURIAM:

Justin Hawkins appeals the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2000). We have reviewed the record, the district court's opinion, and Hawkins' informal appellate brief. Because Hawkins failed to challenge on appeal the bases for the district court's denial of his ineffective assistance of counsel claims, he has not preserved any issue for our review. 4th Cir. R. 34(b). With regard to the issues Hawkins raises for the first time on appeal, we generally do not consider such issues, except under narrow circumstances not present here.* See Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993) (holding that issues raised for first time on appeal generally will not be considered absent exceptional circumstances of plain error or fundamental miscarriage of justice).

Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Hawkins, Nos. CR-98-16-BO; CA-99-704-5-BO (E.D.N.C. July 6, 2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

* Even if Hawkins' claim under Apprendi v. New Jersey, 120 S. Ct. 2348 (2000), were properly before the court, Hawkins was not sentenced above the statutory maximum for the offense of conviction. See United States v. Angle, 230 F.3d 113 (4th Cir. 2000), petition for reh'g filed, Oct. 26, 2000 (No. 96-4662).